

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 679
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Finance
5/1/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill is a clean-up bill that was developed in conjunction with the Texas Department of Housing and Community Affairs (TDHCA) relating to the Housing Trust Fund (HTF) and the Owner-Builder Program (Texas Bootstrap Program) to modernize the programs and improve their efficiency as well as effectiveness. The bill clarifies TDHCA's authority to accept gifts, grants, or donations for the HTF and the requirement to produce a report on the planned use of the HTF. The bill also conforms the statute with adopted agency rules and practices so as to allow those who are helped by established state certified self-help organizations (e.g., Habitat for Humanity) to be able to participate in the program. The bill also updates the loan and funding amounts under the program since the costs of construction and materials have increased since the program was first established in 1999. Additionally, the bill clarifies the type of administrative support that can be provided to help build capacity and strengthen the program's reach.

C.S.S.B. 679 amends current law relating to the administration of certain housing funds by TDHCA.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing board of the Texas Department of Housing and Community Affairs (board) in SECTION 4 (Section 2306.753, Government Code) of this bill.

Rulemaking authority previously granted to the board is modified in SECTION 3 (Section 2306.203, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2306.201, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that the housing trust fund consists of public or private gifts, grants, or donations, rather than public or private gifts or grants.

(c) Authorizes the Texas Department of Housing and Community Affairs (TDHCA) to accept gifts, grants, or donations for the housing trust fund. Requires that all funds received for the housing trust fund under Subsection (b) be deposited or transferred into the Texas Treasury Safekeeping Trust Company.

SECTION 2. Amends Section 2306.202(a), Government Code, as follows:

(a) Authorizes any additional funds to also be made available to for-profit organizations provided that, rather than so long as, at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to nonprofit organizations for a certain purpose. Requires that the remaining portion be distributed to, rather than competed for by, certain entities.

SECTION 3. Amends Section 2306.203, Government Code, as follows:

Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING TRUST FUND. Requires that the governing board of TDHCA (board) adopt rules to administer the housing trust fund, including rules providing:

- (1) Makes no change to this subdivision;
- (2) for a process to set priorities for use of the fund, including the distribution of fund resources in accordance with a plan that is, rather than under a request for a proposal process, developed and approved by the board and included in TDHCA's annual report regarding the housing trust fund as described in the General Appropriations Act;
- (3) that the criteria used to evaluate a proposed activity, rather than rank proposals, will include the leveraging of resources, rather than federal resources; cost-effectiveness of the proposed activity, rather than a proposed development; and extent to which individuals and families of very low income are served by the proposed activity, rather than development;
- (4) Makes a conforming change; and
- (5) and (6) Makes no changes to these subdivisions.

SECTION 4. Amends Section 2306.753(b), Government Code, as follows:

- (b)(4) Requires an owner-builder, to be eligible for a loan under this subchapter, among other requirements, to agree to:
- (A) provide through personal labor at least 65, rather than 60, percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program;
 - (B) provide an amount of personal labor equivalent to the amount required under Paragraph (A) in connection with building or rehabilitating housing for others through a state-certified, rather than nonprofit, owner-builder housing program;
 - (C) provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program; or
 - (D) if due to documented disability or other limiting circumstances as defined by TDHCA rule the owner-builder cannot provide the amount of personal labor otherwise required by this subdivision, provide through the noncontract labor of friends, family, or volunteers at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program.

SECTION 5. Amends Sections 2306.754(a), (b), and (c), Government Code, as follows:

- (a) Prohibits a loan made by TDHCA under this subchapter from exceeding \$45,000, rather than \$30,000.
- (b) Requires the owner-builder to, if it is not possible for an owner-builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, to obtain the amount necessary that exceeds \$45,000 from other sources of funds, rather than from one or more local government entities, nonprofit organizations, or private lenders. Prohibits the total amount of amortized, repayable loans authorized to be made by TDHCA and other entities to an owner-builder under this subchapter from exceeding \$90,000, rather than \$60,000. Makes conforming changes.

(c) Provides that a loan made by TDHCA under this subchapter is required to be secured by a first lien by TDHCA on the real property if the loan is the largest amortized, repayable loan secured by the real property or a co-first lien or subordinate lien as determined by TDHCA rule, if the loan is not the largest loan as described by Paragraph A. Deletes existing text providing that a loan made by TDHCA under this chapter is authorized to be secured by a lien on the real property, including a lien that is subordinate to a lien that secures a loan made under Subsection (b) and that is greater than TDHCA's lien.

SECTION 6. Amends Section 2306.755(a), Government Code, to make a conforming change.

SECTION 7. Amends Section 2306.756(a), Government Code, to make conforming changes.

SECTION 8. Amends Section 2306.757, Government Code, to require TDHCA, in making loans under this subchapter, to give priority to loans to owner-builders who will reside in counties or municipalities that agree in writing to waive certain fees, including fees related to the building or rehabilitation of the housing to be built or improved with the loan proceeds.

SECTION 9. Amends Section 2306.758(c), Government Code, as follows:

(c) Prohibits TDHCA, in a state fiscal year, from using more than 10 percent of the revenue available for purposes of this subchapter to enhance the ability of tax-exempt organizations described by Section 2306.755(a) (relating to organizations listed under Section 501(c)(3), Internal Revenue Code of 1986) to implement the purposes of this chapter and to enhance the number of such organizations that are able to implement those purposes. Requires TDHCA to use that available revenue to provide financial assistance, technical training, and management support for the purposes of this subsection.

SECTION 10. Amends Section 2306.7581(a-1), Government Code, to provide that this subsection expires August 31, 2020, rather than August 31, 2010.

SECTION 11. (a) Makes application of Sections 2306.202, 2306.203, and 2306.758, Government Code, as amended by this Act, prospective to September 1, 2009.

(b) Makes application of Sections 2306.753 and 2306.754, Government Code, as amended by this Act, prospective.

SECTION 12. Effective date: upon passage or September 1, 2009.